

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

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WESTERN DISTRICT OF TENNESSEE
CLERK'S OFFICE

JIMMIE HILL and BARBARA HILL)
)
Plaintiffs,)
)
VS.) No. 1:04-1151-T-An
)
JAMES BOWLES, Chief of Police of)
the Town of Gibson, Tennessee, *et. al.*,)
)
Defendants.)

ORDER PARTIALLY GRANTING DEFENDANTS' RENEWED MOTION TO
DISMISS AND/OR MOTION FOR SUMMARY JUDGMENT

On October 20, 2005, Defendants James Bowles, Wallace Keymon, and the Town of Gibson, Tennessee renewed their jointly-filed motion to dismiss and/or motion for summary judgment. Plaintiffs Jimmie Hill¹ and Barbara Hill responded on November 21, 2005. Among the arguments submitted in Defendant' motion is that Defendant Town of Gibson (Defendant "Town") is entitled to dismissal and/or summary judgment at this stage because it is well-settled law that 42 U.S.C. § 1983 does not permit the imposition of *respondeat superior* liability on a municipal corporation defendant. *See* Defs.' Renewed Mot. to Dismiss and/or Mot. for Summ. J. at 7 (citing *Monnell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978)). Throughout this litigation, however, the sole basis for municipal liability asserted by Plaintiffs has been that Defendant Town "is liable as a result of the ..

¹Jimmie Hill's first name is sometimes spelled "Jimmy" in the record.

. acts of its employees.” Am. Compl. ¶ 6; *see also, e.g.*, Compl. ¶ 16; Pls.’ Resp. to Defs.’ Renewed Mot. to Dismiss and/or Mot. for Summ. J. at 14, ¶ 15 (arguing that Defendant Town “is responsible for the acts of its Mayor and Chief of Police). Because the theory of federal liability unambiguously asserted by Plaintiffs as to Defendant Town directly contradicts binding and well-established law, the court finds that Defendant Town is entitled to have the claims against it dismissed without further ado.

The § 1983 claims asserted against Defendant James Bowles and Defendant Wallace Keymon in their official capacities shall also be dismissed. Official capacity claims are treated as claims against the employing entity—here, Defendant Town. *See, e.g., Knott v. Sullivan*, 418 F.3d 561, 574–75 (6th Cir. 2005). As the court has already determined that Defendant Town cannot be liable in this particular case, it follows that the official capacity claims against Defendants Bowles and Wallace are likewise without merit.

Accordingly, Defendants’ Renewed Motion to Dismiss and/or Motion for Summary Judgment is PARTIALLY GRANTED. The § 1983 claims against Defendant Town of Gibson, Tennessee are DISMISSED. The § 1983 claims against Defendant James Bowles in his official capacity as Chief of Police of the Town of Gibson, Tennessee are DISMISSED. The § 1983 claims against Defendant Wallace Keymon in his official capacity as Mayor of the Town of Gibson, Tennessee are DISMISSED. Defendants Bowles and Keymon shall remain defendants in their individual capacities. The court will decide whether either or both of those defendants are entitled to dismissal and/or summary

judgment in a future decision.

IT IS SO ORDERED.

James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE
6 December 2005
DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 39 in case 1:04-CV-01151 was distributed by fax, mail, or direct printing on December 12, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT